



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

February 6, 2004

OFFICE OF THE  
REGIONAL ADMINISTRATOR

The Honorable John T. Yunits, Jr.  
Mayor of Brockton  
Brockton City Hall  
45 School Street  
Brockton, MA 02301

Dear Mayor Yunits:

Thank you for your letter of January 8, 2004, in which you raise concerns about the pending reissuance of the City of Brockton's National Pollutant Discharge Elimination System (NPDES) permit which you have understood will propose a flow limitation of 18 million gallons per day (MGD).

By way of background, it is my understanding that EPA's Office of Environmental Stewardship has been coordinating with the City on an EPA issued administrative order sent to the City on May 30, 2003. The goal of this order and EPA's coordination with the City and Commonwealth has been to ensure that the City is on track with taking the steps, both short and long term, to upgrade its treatment plant so as to meet its current and future NPDES limits, steps that will ultimately be incorporated in a judicial decree. And, while the City's receipt of state funding is not a prerequisite to compliance, EPA has been coordinating among the parties to ensure that the City does not lose any opportunity for SRF funding.

During our negotiations on the order, the City's NPDES permit came up for reissuance. As you know the City's discharge into the Salisbury Plain River represents nearly the entire flow of the River under critical low flow conditions. Such conditions demand a consistently high level of treatment and cannot tolerate unabated flow increases including the significant infiltration/inflow that the City's system experiences.

After reviewing the City's Facilities Assessment Report in July 2002, which recommended an increase in flow, EPA responded on August 9, 2002, informing the City that an increase from the 18 MGD former design would be authorized only if there is "a determination that toxicity and nutrient issues can be addressed to a level that will result in full attainment of the designated uses of the receiving water." EPA's response did put the City on notice that a flow limit would be incorporated in the permit and, while not ruling a higher flow limit out of the question, noted that the City would have to justify such a higher limit.

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Help us serve you better. If you need to call us regarding this correspondence in the future, please reference 01-0400004.

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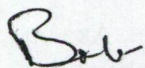


In October 2003, the City submitted a conceptual design report which included a flow increase to 20.5 MGD by the year 2025. Apparently, because the MA DEP and MEPA did not object to the higher flow, the City assumed that the increase would be permissible. However, EPA continues to have concerns since the Salisbury Plain River does not meet all Massachusetts Class B criteria. We understand that while Brockton is the largest pollution source to the river, it is not the only contributor. These water quality concerns were expressed by watershed constituents during the MEPA process and will likely be raised again during the NPDES public comment period.

In the continued spirit of cooperation with the City, our staff met with your representatives and staff from the Massachusetts Department of Environmental Protection (MA DEP) to discuss the flow issue. At the conclusion of the meeting, a proposal was discussed that EPA believes would allow the City to proceed with the planned improvements without jeopardizing the parties' ongoing efforts to complete both the short- and long-term remedial action necessary for the City to achieve compliance. Specifically, it was proposed that the reissued NPDES permit would not contain a flow limit. It will establish mass loadings based on existing conditions, prohibit any additional outside flows beyond those that the City currently is contractually obligated to accept (this will not apply to additional development within Brockton) and anticipates the City accelerating its I/I reduction program. If this arrangement meets with the City's approval, EPA is prepared to immediately redraft and public notice the permit with these conditions. Final issuance would follow shortly thereafter unless significant comments were received during the public notice period.

My staff is available to continue discussing this matter, and I am confident that a resolution can be achieved so that the City can continue with the important task of upgrading its treatment plant. Please have them contact Roger Janson, Director of our NPDES program at (617) 918-1621. Matters related to the ongoing enforcement issues should continue to be directed to Eric Hall at (617) 918-1880 or, for legal issues, Tonia Bandrowicz at (617) 918-1734.

Sincerely,



Robert W. Varney  
Regional Administrator

cc: Glenn Haas, MA DEP



## Quick notes on letter to Varney from Brockton Mayor:

1. After a spring 2002 meeting with MA DEP, MA AGO, and Brockton, it was decided that EPA would evaluate whether a federal CWA enforcement action should be initiated regarding longstanding NPDES permit violations at the Brockton wastewater treatment facility (WWTF).
2. Following a joint DEP/EPA inspection of the WWTF and internal discussions, OES determined that a judicial referral would be appropriate considering the severity and duration of the violations and the obvious poor maintenance of the facility.
3. In order to bring about a quick response to the equipment maintenance and repair needs, we decided to issue an A.O. to require immediate correction of maintenance problems and a number of low-cost capital improvements. The A.O. was issued May 30, 2003 and the City has been in compliance so far. We have started the referral process and a DOJ attorney has been assigned.
4. In October, 2003, Brockton submitted a facility design report to the MA DEP for Phase 1 of a three phase, \$61 million WWTF upgrade to resolve historic violations and in anticipation of more stringent limits in the NPDES permit reissuance scheduled for 2004. The new permit will have more stringent requirements for nutrient removal due to the fact that the wastewater flow dominates the flow in the small receiving stream. This 2003 design, carried over from a 2002 facility assessment report prepared by the City's consultant, is based on a design flow of 20.5 mgd, up from the current design of 18 mgd.
5. An August 2002 OEP letter to the City, in response to the 2002 facility assessment, regarding the nutrient limits and WWTF flow indicated that a waste flow limit (as opposed to "report only") would be included in the new permit. The letter stated that an increase from the 18 mgd former design would be authorized only if there is "a determination that toxicity and nutrient issues can be addressed to a level that will result in full attainment of the designated uses of the receiving water." Brockton and its consultant will likely claim that the upgraded facility will meet water quality standards. OEP may disagree.
6. MA DEP and MEPA have not objected to the waste flow increase. Environmental groups raised objections during the MEPA review.
7. If authorization of the flow increase is not forthcoming, the City may withdraw its funding for a facility sized for 20.5 mgd but permitted at 18 mgd. If restudy of the water quality issues is required and/or if redesign of the WWTF is necessary, the upgrade may be significantly delayed leading to continued violations in the absence of necessary capital improvements. The improvements resulting from the A.O. are important but more costly and significant repairs are necessary for permit compliance. There may be a compromise where the new permit continues to require "report only" for flow, a requirement for aggressive I/I removal, and a prohibition on future acceptance of neighboring communities' wastewater.



Mr. [Name] [Address] [City, State, Zip]

Dear Mr. [Name]:

I am writing to you regarding the [Project Name] [Project Description]. The [Project Name] is a [Project Description] [Project Location]. The [Project Name] is a [Project Description] [Project Location]. The [Project Name] is a [Project Description] [Project Location].

Following the [Project Name] [Project Description], the [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description].

In order to [Project Name] [Project Description], the [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description].

In October 1993, [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description].

An August 1993 OLE [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description].

Mr. [Name] and Mr. [Name] have not objected to the [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description].

Following the [Project Name] [Project Description], the [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description]. The [Project Name] [Project Description].